

### REMARKS

The Office Action dated March 31, 2003 has been received and carefully studied.

The Examiner objects to claims 3-7 because claims 3 and 5 were previously cancelled. By the accompanying amendment, claims 3 and 5 have been presented as new claims 9 and 10.

The Examiner rejects claims 1, 2, 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Key et al. in view of Ohtomo et al., Inoue et al. and Kitajima, and claim 4 as being unpatentable over Key et al., Ohtomo et al., Inoue et al. and Kitajima in view of Schreuder. The Examiner states that Key et al. disclose a distance measuring system for measuring distance by receiving a reflection light beam from an object to be measured, the system comprising an arithmetic unit, a light emitting unit for emitting a measuring light beam and a photodetection unit for receiving the reflection light beam from an object to be measured and for issuing a signal based on a photodetection amount of the reflection light beam. The Examiner states that there is provided presorted data that is obtained by associating the measured distance and the photodetection amount of the reflection light beam according to the object to be detected, wherein the control arithmetic unit compares the reflection light beam from the object to be measured as a result of the distance measurement based on the reflection light beam and the presorted reference data.

The Examiner admits that Key et al. do not disclose a measuring system configured to determine whether the object to be measured is a prism or a natural object based on the result of the comparison, nor do Key et al. disclose a storage unit or a mode changing switch. The Examiner takes official notice that displays are conventional and would be obvious to use one for the purpose of viewing results. The Examiner cites Ohtomo et al. for its disclosure of a object detection scheme wherein a particular object is distinguished over another based on a characteristic reflected light signal. Inoue et al. is cited for its disclosure of apparatus including a storage unit configured to store

values based on distance measurements as reference values to be used by a discrimination unit. Kitajima is cited for its disclosure of apparatus comprising a mode switching mechanism. The Examiner concludes that it would have been obvious to modify the system of Key et al. to configure it to determine whether the object to be measured is a prism or a natural object as taught by Ohtomo et al., and to modify the Key et al. system to incorporate a storage unit as taught by Inoue et al. and a mode-changing switch as taught by Kitajima.

The Examiner is respectfully requested to reconsider her position.

The present invention as claimed relates to a distance measuring system which makes it possible to perform distance measurements in both a prism measurement mode using a prism as the object to be measured, and a non-prism measurement mode where the prism is not the object to be measured. Thus, the objects to be measured in the present invention are both a prism and a natural object, which are distinctly different in the amount the reflect light beams. The present invention prestores the photodetection amounts of reflection light beams from the prism and the natural object, and distinguishes the prism and natural object and changes the measurement mode.

In contrast, the combination of Key et al. and Ohtomo et al. (as well as Inoue et al. and Kitajima) would not lead to the invention as claimed. Specifically, although Ohtomo et al. teach an object reflector detecting apparatus that can identify a predetermined object reflector, it does so by "expelling the reflected lights from any other members than the specified object reflector" (column 2, lines 1-2). The apparatus of Ohtomo et al. functions so as to not mistakenly perform distance measurement in a prism measurement mode based on a reflection light beam from a reflector that is other than the object to be measured. Ohtomo et al. accomplishes this by only detecting a component of the direction of polarization from the object reflector. Ohtomo et al. do not disclose or suggest performing distance measurement in both a prism measurement mode and a non-prism measurement

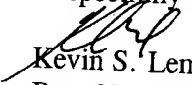
mode; instead, reflected light from any object other than the desired object to be measured is simply discarded.

Accordingly, even if one skilled in the art were motivated to modify the system of Key et al. in view of Ohtomo et al., such a modified system would at best merely determine whether an object is the object to be measured or some other object, and would then expel the reflected light from all but the object to be measured. Absent impermissible hindsight, there is absolutely no suggestion in the combination of references cited to perform distance measurements on both an object to be measured and a prism as required by the instant claims, nor is there any suggestion that it is possible to change the measurement mode accordingly.

The amendment is only now being made to properly present the subject matter of claims 9 and 10.

Reconsideration, entry of the amendment, and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,

  
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